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**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

MID-CENTURY INSURANCE COMPANY, )  
as subrogee of Sherman Kappe, ) Case No.

Plaintiffs, )

v. )

JAMES ANTHONY SMITH; MISTER )  
JONATHAN JACKSON III; ANDERSON )  
MOORE; BUDGET RENT A CAR )  
SYSTEM, INC.; and DOES I through X, )  
inclusive, )

Defendants. )

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 2679(d)(2), 1346(b)(1), 1442(a)(1) and 1446(a), the United States of America, on behalf of itself and Federal Defendant Mister Jonathan Jackson, III (“Jackson”), a federal employee acting in the course and scope of federal employment or office at the time of the subject incident, removes this case to the United States District Court for the District of Nevada. The grounds for removal are as follows:

On July 13, 2017, Plaintiff commenced this action in the Justice Court, Las Vegas Township, Court, Clark County, Nevada, as Case No. 17C014770. Plaintiff alleges that on or about November 30, 2015, Jackson negligently operated his vehicle which resulted in damages to Plaintiff. A copy of Plaintiff’s complaint is attached hereto as Exhibit A.

1 This action is being removed pursuant to the Federal Tort Claims Act, which provides in  
2 pertinent part:

3 Upon Certification by the Attorney General that the defendant employee was acting  
4 within the scope of his office or employment at the time of the incident out of which  
5 the claim arose, any civil action or proceeding commenced upon such claim in a State  
6 court shall be removed without bond at any time before trial by the Attorney General to  
7 the district court of the United States for the district and division embracing the place in  
which the action or proceeding is pending. Such action or proceeding shall be deemed  
to be an action or proceeding brought against the United States . . . , and the United  
States shall be substituted as the party defendant.

8 28 U.S.C. § 2679(d)(2). The Attorney General has delegated to United States Attorneys the  
9 authority to certify that a federal employee was acting in the course and scope of his  
10 employment at the time of the incident at issue. 28 C.F.R. § 15.4. Jackson has been previously  
11 certified as acting within the course and scope of federal employment or office at the time of the  
12 incident that is the subject of Plaintiff's Complaint. The prior certification occurred in the  
13 related case asserting identical claims arising out of identical facts and circumstances that was  
14 previously removed and voluntarily dismissed after the United States was substituted as the  
15 proper defendant for Jackson under the Federal Tort Claims Act in *Mid Century Insurance*  
16 *Company v. James Anthony Smith, et al.*, 2:17-cv-00077-JAD-CWH. The prior Certification of  
17 Scope of Employment is attached hereto as Exhibit B, and is also attached as an exhibit to the  
18 concurrently filed Notice of Substitution. Additionally, federal district courts have exclusive  
19 jurisdiction for tort claims arising from the negligent or wrongful acts or omissions of federal  
20 employees acting within the scope of their employment or office. *See* 28 U.S.C. § 1346(b)(1).

21 Further, 28 U.S.C. § 1442(a)(1) provides in pertinent part:

22 "A civil action ... that is commenced in a State court and that is against or directed to  
23 any of the following may be removed by them to the district court of the United States  
24 for the district and division embracing the place wherein it is pending: (1) The United  
25 States or any agency thereof or any officer (or any person acting under that officer) of  
the United States or of any agency thereof, in an official or individual capacity, for or  
relating to any act under color of such office . . . ."

26 28 U.S.C. § 1442(a)(1). Section 1442(a)(1) provides for a "broad" grant of removal jurisdiction  
27 and is not given a "narrow, grudging interpretation." *Nationwide Investors v. Miller*, 793 F.2d  
28 1044, 1046 (9th Cir. 1986) (citing *Willingham v. Morgan*, 395 U.S. 402, 407 (1969)). Under

1 Section 1442(a)(1), federal court jurisdiction need not even be apparent from the face of the  
2 complaint itself. *See Jefferson Cnty., Alabama v. Acker*, 527 U.S. 423 (1999); *Mesa v.*  
3 *California*, 489 U.S. 121 (1989).

4 The United States gives notice that the above-referenced action, commenced in the  
5 Justice Court, Las Vegas Township, Clark County, Nevada, as Case No. 17C014770, is now  
6 removed to the United States District Court for the District of Nevada. The United States does  
7 not, by filing this notice, waive service of process or any other defenses available under Fed. R.  
8 Civ. P. 12(b) or other applicable law. A copy of this notice will be served promptly on Plaintiff  
9 and all other appearing parties.

10 Respectfully submitted this 16th day of January 2018.

11 DAYLE ELIESON  
12 United States Attorney

13 /s/ Mark E. Woolf  
14 MARK E. WOOLF  
15 Assistant United States Attorney  
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**PROOF OF SERVICE**

I, Mark E. Woolf, hereby certify that the **NOTICE OF REMOVAL** was served this date on all parties via the Court's Electronic Case Filing system, and as indicated below:

**Electronic Mail & U.S. Mail:**

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*Attorneys for Defendant Malco Enterprises of Nevada, Inc.  
d/b/a Budget Rent A Car and Sales*

Dated this 16th day of January 2018.

/s/ Mark E. Woolf  
MARK E. WOOLF  
Assistant United States Attorney